

110TH CONGRESS
2D SESSION

H. R. 6500

To amend title 5, United States Code, to provide for the automatic enrollment of new participants in the Thrift Savings Plan, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2008

Mr. WAXMAN (for himself, Mr. TOM DAVIS of Virginia, and Mr. DAVIS of Illinois) introduced the following bill; which was referred to the Committee on Oversight and Government Reform

A BILL

To amend title 5, United States Code, to provide for the automatic enrollment of new participants in the Thrift Savings Plan, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Thrift Savings Plan Enhancement Act of 2008”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Automatic enrollments.

Sec. 3. Qualified Roth contribution program.

Sec. 4. Authority to establish self-directed investment options.

Sec. 5. Reporting requirements.
 Sec. 6. Acknowledgement of risk.

1 **SEC. 2. AUTOMATIC ENROLLMENTS.**

2 (a) AUTOMATIC ENROLLMENT OF NEW PARTICI-
 3 PANTS.—

4 (1) IN GENERAL.—Section 8432(b) of title 5,
 5 United States Code, is amended by striking para-
 6 graphs (2) through (4) and inserting the following:
 7 “(2)(A) The Board shall by regulation provide for
 8 new participants to be automatically enrolled to make con-
 9 tributions under subsection (a) at the default percentage
 10 of basic pay.

11 “(B) For purposes of this paragraph, the default per-
 12 centage shall be equal to 3 percent or such other percent-
 13 age, not less than 2 percent nor more than 5 percent, as
 14 the Board may by regulation prescribe.

15 “(C) The regulations shall include provisions under
 16 which any individual who would otherwise be automatically
 17 enrolled in accordance with subparagraph (A) may—

18 “(i) modify the percentage or amount to be con-
 19 tributed pursuant to automatic enrollment, effective
 20 from the start of such enrollment; or

21 “(ii) decline automatic enrollment altogether.

22 “(D) For purposes of this paragraph, the term ‘new
 23 participant’ means any individual participating in the
 24 Thrift Savings Plan pursuant to an appointment or elec-

1 tion which occurs after any regulations under subpara-
2 graph (A) first take effect.

3 “(E) Sections 8351(a)(1), 8440a(a)(1), 8440b(a)(1),
4 8440c(a)(1), 8440d(a)(1), and 8440e(a)(1) shall be ap-
5 plied in a manner consistent with the purposes of this
6 paragraph.”.

7 (2) TECHNICAL AMENDMENT.—Section
8 8432(b)(1) of title 5, United States Code, is amend-
9 ed by striking the parenthetical matter in subpara-
10 graph (B).

11 (b) DEFAULT INVESTMENTS.—Section 8438(c)(2) of
12 title 5, United States Code, is amended to read as follows:

13 “(2) If an election has not been made with respect
14 to any sums in the Thrift Savings Fund which are avail-
15 able for investment, the Executive Director shall invest
16 such sums in—

17 “(A) the Government Securities Investment
18 Fund; or

19 “(B) such alternative fund or funds (in lieu of
20 the fund under subparagraph (A)) as the Board may
21 designate in regulations.

22 The designation of an alternative fund by regulations
23 under subparagraph (B) may be made only if, in the judg-
24 ment of the Board, such designation would be in the best
25 interests of participants. Any decision under the preceding

1 sentence shall be made after consultation with the Em-
 2 ployee Thrift Advisory Council (established under section
 3 8473).”.

4 **SEC. 3. QUALIFIED ROTH CONTRIBUTION PROGRAM.**

5 (a) IN GENERAL.—Subchapter III of chapter 84 of
 6 title 5, United States Code, is amended by inserting after
 7 section 8432c the following:

8 **“§ 8432d. Qualified Roth contribution program**

9 “(a) DEFINITIONS.—For purposes of this section—

10 “(1) the term ‘qualified Roth contribution pro-
 11 gram’ means a program described in paragraph (1)
 12 of section 402A(b) of the Internal Revenue Code of
 13 1986 which meets the requirements of paragraph (2)
 14 of such section; and

15 “(2) the terms ‘designated Roth contribution’
 16 and ‘elective deferral’ have the meanings given such
 17 terms in section 402A of the Internal Revenue Code
 18 of 1986.

19 “(b) AUTHORITY TO ESTABLISH.—The Board shall
 20 by regulation provide for the inclusion in the Thrift Sav-
 21 ings Plan of a qualified Roth contribution program, under
 22 such terms and conditions as the Board may prescribe.

23 “(c) REQUIRED PROVISIONS.—The regulations under
 24 subsection (b) shall include—

1 “(1) provisions under which an election to make
2 designated Roth contributions may be made—

3 “(A) by any individual who is eligible to
4 make contributions under section 8351,
5 8432(a), 8440a, 8440b, 8440c, 8440d, or
6 8440e; and

7 “(B) by any individual, not described in
8 subparagraph (A), who is otherwise eligible to
9 make elective deferrals under the Thrift Sav-
10 ings Plan;

11 “(2) any provisions which may, as a result of
12 the enactment of this section, be necessary in order
13 to clarify the meaning of any reference to an ‘ac-
14 count’ made in section 8432(f), 8433, 8434(d),
15 8435, 8437, or any other provision of law; and

16 “(3) any other provisions which may be nec-
17 essary to carry out this section.”.

18 (b) CLERICAL AMENDMENT.—The analysis for chap-
19 ter 84 of title 5, United States Code, is amended by insert-
20 ing after the item relating to section 8432c the following:

“8432d. Qualified Roth contribution program.”.

21 **SEC. 4. AUTHORITY TO ESTABLISH SELF-DIRECTED IN-**
22 **VESTMENT OPTIONS.**

23 (a) IN GENERAL.—Section 8438(b)(1) of title 5,
24 United States Code, is amended—

1 (1) in subparagraph (D), by striking “and” at
2 the end;

3 (2) in subparagraph (E), by striking the period
4 and inserting “; and”; and

5 (3) by adding after subparagraph (E) the fol-
6 lowing:

7 “(F) self-directed investment options, if
8 the Board authorizes such options under para-
9 graph (5).”.

10 (b) REQUIREMENTS.—Section 8438(b) of title 5,
11 United States Code, is amended by adding at the end the
12 following:

13 “(5)(A) The Board may authorize the addition of
14 self-directed investment options under the Thrift Savings
15 Plan if the Board determines that the addition of such
16 options would be in the best interests of participants.

17 “(B) The self-directed investment options shall be
18 limited to—

19 “(i) low-cost, passively-managed index funds
20 that offer diversification benefits; and

21 “(ii) other investment options, if the Board de-
22 termines the options to be appropriate retirement in-
23 vestment vehicles for participants.

1 “(C) The Board shall ensure that any administrative
2 expenses related to self-directed investment options are
3 borne solely by the participants who use such options.

4 “(D) The Board may establish such other terms and
5 conditions for self-directed investment options as the
6 Board considers appropriate to protect the interests of
7 participants, including requirements relating to risk dis-
8 closure.

9 “(E) The Board shall consult with the Employee
10 Thrift Advisory Council (established under section 8473)
11 before establishing any self-directed investment option.”.

12 **SEC. 5. REPORTING REQUIREMENTS.**

13 (a) ANNUAL REPORT.—The Board shall, not later
14 than March 31 of each year, submit to Congress an annual
15 report on the operations of the Thrift Savings Plan. Such
16 report shall include, for the prior calendar year, informa-
17 tion on the number of participants as of the last day of
18 such prior calendar year, the median balance in partici-
19 pants’ accounts as of such last day, demographic informa-
20 tion on participants, the percentage allocation of amounts
21 among investment funds or options, the status of the de-
22 velopment and implementation of self-directed investment
23 options, and such other information as the Board con-
24 sider appropriate. A copy of each annual report under

1 this subsection shall be made available to the public
2 through an Internet website.

3 (b) REPORTING OF FEES AND OTHER INFORMA-
4 TION.—

5 (1) IN GENERAL.—The Board shall include in
6 the periodic statements provided to participants
7 under section 8439(c) the amount of the investment
8 management fees, administrative expenses, and any
9 other fees or expenses paid with respect to each in-
10 vestment fund and option under the Thrift Savings
11 Plan. Any such statement shall also provide—

12 (A) information on the employee's esti-
13 mated income replacement rate, as determined
14 by the Executive Director based on the employ-
15 ee's most recent account balance and rates of
16 contributions; and

17 (B) a statement notifying participants as
18 to how they may access the annual report de-
19 scribed in subsection (a) as well as any other
20 information concerning the Thrift Savings Plan
21 that might be useful.

22 (2) USE OF ESTIMATES.—For purposes of pro-
23 viding the information required under this sub-
24 section, the Executive Director may provide a rea-
25 sonable and representative estimate of any fees or

1 expenses described in paragraph (1) and shall indi-
2 cate any such estimate as being such an estimate.
3 Any such estimate shall be based on the previous
4 year's experience.

5 (c) DEFINITIONS.—For purposes of this section—

6 (1) the term “Board” has the meaning given
7 such term by 8401(5) of title 5, United States Code;

8 (2) the term “participant” has the meaning
9 given such term by section 8471(3) of title 5, United
10 States Code; and

11 (3) the term “account” means an account es-
12 tablished under section 8439 of title 5, United
13 States Code.

14 **SEC. 6. ACKNOWLEDGEMENT OF RISK.**

15 (a) IN GENERAL.—Section 8439(d) of title 5, United
16 States Code, is amended—

17 (1) by striking the matter after “who elects to
18 invest in” and before “shall sign an acknowledge-
19 ment” and inserting “any investment fund or option
20 under this chapter, other than the Government Se-
21 curities Investment Fund,”; and

22 (2) by striking “either such Fund” and insert-
23 ing “any such fund or option”.

24 (b) COORDINATION WITH PROVISIONS RELATING TO
25 INVESTMENTS IN THE ABSENCE OF AN ELECTION.—Sub-

1 section (d) of section 8439 of title 5, United States Code
2 (as amended by subsection (a)) is further amended—

3 (1) by redesignating subsection (d) as sub-
4 section (d)(1); and

5 (2) by adding at the end the following:

6 “(2)(A) In the case of an investment made under sec-
7 tion 8438(c)(2) in any fund or option to which paragraph
8 (1) would otherwise apply, the participant involved shall,
9 for purposes of this subsection, be deemed—

10 “(i) to have elected to invest in such fund or
11 option; and

12 “(ii) to have executed the acknowledgement re-
13 quired under paragraph (1).

14 “(B)(i) The Executive Director shall prescribe regu-
15 lations under which written notice shall be provided to a
16 participant whenever an investment is made under section
17 8438(c)(2)(B) on behalf of such participant in the absence
18 of an affirmative election described in section 8438(c)(1).

19 “(ii) The regulations shall ensure that any such no-
20 tice shall be provided to the participant within 7 calendar
21 days after the effective date of the default election.

22 “(C) For purposes of this paragraph, the term ‘par-
23 ticipant’ has the meaning given such term by section
24 8471(3).”.

1 (c) COORDINATION WITH PROVISIONS RELATING TO
2 FIDUCIARY RESPONSIBILITIES, LIABILITIES, AND PEN-
3 ALTIES.—Section 8477(e)(1)(C) is amended—

4 (1) by redesignating subparagraph (C) as sub-
5 paragraph (C)(i); and

6 (2) by adding at the end the following:

7 “(ii) A fiduciary shall not be liable under subpara-
8 graph (A), and no civil action may be brought against a
9 fiduciary—

10 “(I) for providing for the automatic enrollment
11 of a participant in accordance with section
12 8432(b)(2)(A); or

13 “(II) for enrolling a participant in a default in-
14 vestment fund in accordance with section
15 8438(c)(2)(B).”.

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